

STATE OF INDIANA



INDIANAPOLIS, 46204

INDIANA UTILITY REGULATORY COMMISSION
302 W. WASHINGTON STREET, ROOM E306

RECEIVED

October 21, 1996

OCT 22 1996

FCC MAIL ROOM

VIA FEDERAL EXPRESS

William F. Canton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Motion of Indiana for Leave to File Petition for Reconsideration in FCC 96-388

Dear Secretary Canton:

Enclosed are an original, ten copies of the Motion of Indiana for Leave to File Petition for Reconsideration in FCC 96-388.

Also, please find enclosed an additional copy and self-addressed return envelope, to be date-stamped received and returned.

Sincerely,

A handwritten signature in cursive script, appearing to read "JAF".
Joel A. Fishkin

Enclosures

No. of Copies rec'd
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0211

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
)	
Implementation of the)	CC Docket No. 96-128
Pay Telephone Reclassification)	
and Compensation Provisions of the)	
Telecommunications Act of 1996)	
)	
Policies and Rules Concerning)	CC Docket No. 91-35
Operator Service Access and)	
Pay Telephone Compensation)	DOCKET FILE COPY ORIGINAL
)	
Petition of the Public Telephone)	
Council to Treat Bell Operating Company)	
Payphones as Customer Premises)	
Equipment)	MOTION OF INDIANA
)	FOR LEAVE TO FILE
)	PETITION FOR RECONSIDERATION
Petition of Oncor Communications)	
Requesting Compensation for)	
Competitive Payphone Premises)	
Owners and Presubscribed Operator)	
Services Providers)	
)	
Petition of the California Payphone)	
Association to Amend and Clarify)	
Section 68.2(a) of the)	
Commission's Rules)	
)	
Amendment of Section 69.2(m))	
and (ee) of the Commission's Rules)	
to Include Independent Public)	
Payphones Within the "Public)	
Telephone" Exemption from End User)	
Common Line Access Charges)	

1. Indiana intends to file a Joint Petition for Reconsideration of the Federal Communications Commission's Report and Order, FCC 96-388, issued in the above-captioned proceeding.
2. Indiana did not file comments and thus is not a party to this proceeding.
3. Under 47 C.F.R. § 1.106(b)(1), "[i]f a petition is filed by a person who is not a party to the proceeding, it shall state with particularity the manner in which the person's interests are adversely affected by the action taken and shall show good reason why it was not possible for him to participate in the earlier stages of the proceeding."
4. Indiana failed to participate because the Commission's Notice of Proposed Rulemaking (NPR) gave no notice that the FCC was contemplating deregulation.
5. According to the NPR, the three options the Commission was considering for ensuring fair compensation for local coin calls were to set a nationwide local call rate for all calls originated by payphones, for the Commission to prescribe specific national guidelines for states to use in establishing a local rate, and for the states to continue to set the local rate, subject to a possible review mechanism by the Commission.

6. If Indiana had received appropriate notice that the Commission was considering deregulating, these states would have submitted comments objecting to such an action.
7. The Petition for Reconsideration will demonstrate how Indiana are adversely affected by this action.

WHEREFORE, for the foregoing reasons, Indiana respectfully requests that their Motion for Leave to File a Petition for Reconsideration be granted.

Respectfully submitted,



Eric A. Eisen

Counsel for the Indiana Utility
Regulatory Commission
Eisen Law Office
10028 Woodhill Road
Bethesda, MD 20817

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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Operator Service Access and)	
Pay Telephone Compensation)	
)	
Petition of the Public Telephone)	
Council to Treat Bell Operating Company)	
Payphones as Customer Premises)	
Equipment)	JOINT PETITION FOR
)	RECONSIDERATION
Petition of Oncor Communications)	BY THE STATES OF
Requesting Compensation for)	INDIANA AND NEW MEXICO
Competitive Payphone Premises)	
Owners and Presubscribed Operator)	
Services Providers)	
)	
Petition of the California Payphone)	
Association to Amend and Clarify)	
Section 68.2(a) of the)	
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to Include Independent Public)	
Payphones Within the "Public)	
Telephone" Exemption from End User)	
Common Line Access Charges)	

The state utility commissions named below (hereinafter "the state commissions") join in the Joint Petition for Reconsideration filed by the state utility commissions of Maine et alia concerning the Report and Order issued by the Federal Communications Commission ("Commission") on September 20, 1996 (hereafter "Joint Petition").

The state commissions that by this filing join in the Joint Petition are statutorily responsible for establishing just and reasonable rates, charges, practices, and service quality standards for public utilities within their jurisdictions. They therefore are "state commission(s)" within the meaning of the Telecommunications Act of 1996.

Attached to this filing is the affidavit of Joel Fishkin, which the undersigned states offer in support of the statement contained on or about page 12 of the Joint Petition that:

To a greater or lesser extent, virtually any payphone is a "mini-monopoly," depending not only on the caller's "lack of time to identify potential substitute payphones" (a circumstance that describes most callers), but on the caller's mobility, the location of other payphones and the ease of finding them.

Respectfully submitted,



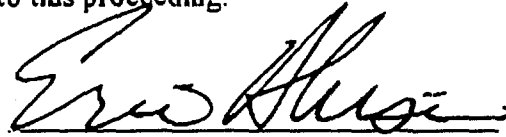
Eric A. Eisen
Counsel for the Indiana Utility
Regulatory Commission
Eisen Law Office
10028 Woodhill Road
Bethesda, MD 20817



David M. Kaufman
General Counsel
New Mexico State Corporation
Commission
P.O. Drawer 1269
Santa Fe, NM 87504

Certificate of Service

I hereby certify that I have caused the foregoing pleadings to be served by first class mail, postage prepaid, upon the parties to this proceeding.

A handwritten signature in black ink, appearing to read "Eric A. Eisen", written over a horizontal line.

Eric A. Eisen

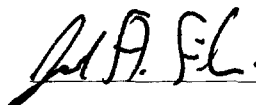
AFFIDAVIT

STATE OF INDIANA
COUNTY OF MARION } SS:

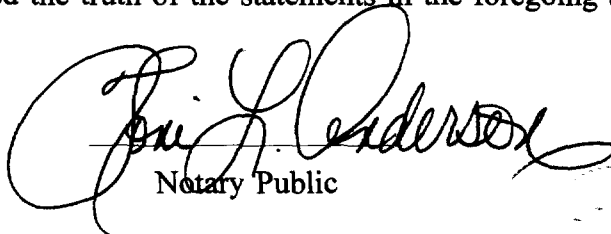
The undersigned, being duly sworn on oath says as follows:

1. I have been a Senior Utility Analyst in the Economics and Finance Division of the Indiana Utility Regulatory Commission since March 1, 1995.
2. I have a B.A. Economics from Creighton University, Omaha, Nebraska; a M.A. Economics, Indiana University -- Bloomington, Indiana; and have been admitted as Doctoral Candidate, Indiana University -- Bloomington, Indiana.
3. In the course of my employment with the Indiana Utility Regulatory Commission, I have studied the payphone market in Indiana.
4. In my opinion, the market for the local sent-paid call at a payphone in Indiana is a monopoly. Furthermore, the payphone market in other states is likely to have similar conditions. Currently, and until cellular technology becomes a economically viable substitute for payphones, there is no substitute for a payphone. It is rare that at the same location multiple payphone companies provide payphones. Within a specific location, a payphone provider will most likely charge a single local coin rate. At most locations a caller does not have the ability to seek out other alternatives due to a lack of time and uncertainty regarding other payphone locations. Moreover, a caller is unwilling to seek out other payphone locations due to the economic cost: A person's time is more valuable than the perceived difference in the price of a local coin call at another payphone location. For the reasons above, the market for the local coin call is not competitive and the market cannot be allowed to set the local coin rate.

Further affiant sayeth not


Joel A. Fishkin

Before me, a Notary Public in and for said County and State personally appeared, Joel A. Fishkin who acknowledged the truth of the statements in the foregoing affidavit on this 18th day of October, 1996.


Notary Public

My term expires

Toni L. Anderson
Notary Public
Marion County
Comm. Exp. 9-10-2000

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Joint Petition for Reconsideration by the States of Indiana and New Mexico and the Motion for Leave to File was sent by United States first-class mail, postage prepaid on this 21th day of October, 1996 to the listed parties:

Michael K. Kellogg
Jeffrey A. Lankas
Marvin J. Cameron
Kellogg, Huber, Hansen,
Todd & Evans
1301 K St., N.W., Suite 1000W
Washington, D.C. 20005

Roy L. Morris
1990 M St., N.W., Suite 500
Washington, D.C. 20036
Counsel for Frontier

William H. Smith, Jr.
Bureau of Rate and Safety
Iowa Utilities Board
Lucas State Office Building
Des Moines, Iowa 50319

Charles H. Kennedy
Morrison & Foerster
2000 Pennsylvania Ave., N.W.
Washington, D.C. 20006-1800
Counsel for Airports Council
International-North America

Kevin Maher
American Metal & Metal Ass'n
Suite 600
1201 New York Avenue, N.W.
Washington, D.C. 20005-3917

Joseph Kelley
Flying J Inc.
P.O. Box 678
Brigham City, Utah 84302-0678

Paul J. Berman
Alan C. Weixel
Covington & Burling
1201 Pennsylvania Ave., N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

Richard A. Askoff
Donna A. DiMartino
NRCA
100 South Jefferson Road
Whippany, NJ 07981

Michael Shortley
Frontier Corporation
180 South Clinton Avenue
Rochester, NY 14646

Patricia A Hahn
1775 K St., N.W., Suite 500
Washington, D.C. 20006
Counsel for Airports Council
International-North America

Joe D. Edge
Sue W. Bladok
Drinker, Biddle & Reach
901 15th Street, N.W.
Washington, D.C. 20005

C. Douglas McKeever
Traction Talemec, Inc.
Suite 110
1150 Northmeadow Parkway
Roswell, GA 30076

David Gorin
President
National Ass'n of RV Parks &
Campgrounds
Suite 201
8605 Westwood Center Drive
Vienna, VA 22182-2231

Charles M. Barclay, A.A.E.
President
American Ass'n of Airport
Executives
4212 King Street
Alexandria, VA 22302

International Transcription
Service
Room 246
1919 M Street, N.W.
Washington, D.C. 20554

Mark J. Golden
Personal Communications
Industry Ass'n
500 Montgomery St., Suite 700
Alexandria, VA 22314-1561

Pat Wood, III
Robert W. Gee
Judy Walsh
Public Utility Commission
of Texas
7800 Shoal Creek Blvd.
Austin, Texas 78757

E. M. Thurmond, A.A.E
Yuma International Airport
2191 E. 32nd Street
Yuma, AZ 85365

Judith St. Ledger-Roty
Enrico C. Soriano
Wendy I. Kirchick
Reed Smith Shaw & McClay
1101 K St., N.W., Suite 1100B
Washington, D.C. 20005-3317
Counsel for Paging Network, Inc.

John F. Beach, F.A.
1400 Main Street, Suite 1307
P.O. Box 444
Columbia, SC 29202-0444
Counsel for SC Public
Communications Ass'n

Willard C. Raine
314 East High Street
Jefferson City, MO 65101
Counsel for Midwest Independent
Crin Payphone Ass'n

Susan Drombetta
Manager, Rates and Tariffs
Scherers Communications Group, Inc.
575 Scherers Court
Worthington, OH 43085

Katherine M. Nolden
Stephen J. Rosen
Wilay. Hein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006
Counsel for Personal Communications

Albert H. Kramer
Robert F. Aldrich
Jacob S. Varber
Dickstein Shapiro Morin &
Oshinsky L.L.P.
2101 L Street, N.W.
Washington, D.C. 20017-1526

Judith St. Ledger-Roty
Enrico C. Soriano
Wendy I. Kirchick
Reed Smith Shaw & McClay
1101 K St., N.W., Suite 1100B
Washington, D.C. 20005-3317
Counsel for Intellicall Cos.

Thomas J. MacBride, Jr.
Kathryn A. Fugere
505 Sansome St., Suite 900
San Francisco, CA 94111
Counsel for CA Ass'n of Long
Distance Tel. Cos.

Clifton Craig, Jr., President
South Carolina Public
Communications Ass'n
1132 S. Center Road
Darlington, SC 29532

William R. Balla
Leland R. Rodier
118 West Ottawa Street
Lansing, MI 48933
Counsel for Michigan Pay Tel. Ass'n

Martin A. Matton
Graham & James
One Maritime Plaza, Suite 200
San Francisco, CA 94111
Counsel for CA Payphone Ass'n

Michael W. Ward
John F. Ward, Jr.
Henry T. Kelly
O'Keefe, Ashenden, Lyons
& Ward
30 W. LaSalle St., Suite 4100
Chicago, IL 60602

Ernest G. Johnson
Cecil Wood
Maribeth D. Snapp
Oklahoma Corp. Commission
P.O. Box 25008-2000
Oklahoma City, OK 73152-2000

Rachel J. Rothstein
Cable & Wireless, Inc.
2219 Leesburg Pike
Vienna, VA 22139

Bruce W. Renard
Peoples Telephone Co., Inc.
2300 N.W. 89th Place
Miami, FL 33172

Mary E. Burgess
State of New York Department
of Public Service
Three Empire State Plaza
Albany, NY 12223-1390

Albert H. Dramer
Robert F. Aldrich
Dickstein, Shapiro, Morin &
Gahinsky, L.L.P.
2101 L Street, N.W.
Washington, D.C. 20037-1526
Counsel for American Public
Communications Council

Blossom A. Parore
NJ Div. of Ratepayer Advocate
31 Clinton St., 11th Floor
Newark, NJ 07101

Cynthia B. Miller
Florida PSC
Capital Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Eric L. Bernthal
Michael S. Wroblewski
Latham & Watkins
Suite 1300
1001 Pennsylvania Ave., N.W.
Washington, D.C. 20004
Counsel for Peoples Telephone Co.

Peter Arth, Jr.
Edward W. O'Neill
Patrick S. Berdga
505 Van Ness Avenue
San Francisco, CA 94102
Counsel for PUC of CA

Robert M. Lynch
Durward D. Dupre
Mary W. Marks
J. Paul Walters, Jr.
Southwestern Bell Tel. Co.
One Bell Center, Room 3516
St. Louis, MO 63101

Mary McDermott
Linda Kent
Charles D. Conson
United States Tel. Ass'n
1401 K St., N.W., Suite 600
Washington, D.C. 20005

M. Robert Sutherland
Theodore R. Kingsley
BellSouth Corporation
Suite 1700
1155 Peachtree St., N.E.
Atlanta, GA 30309-3610

Martin Cintron
Salvador Dy
Gary S. Butzker
NY City Dept. of Info.
and Telecommunications
third floor
11 Metrotech Center
Brooklyn, NY 11201

Glenn Stahle
Call West Communications, Inc.
701 N. St. Mary's
San Antonio, TX 78206

W. Dewey Clower
NATSO, Inc.
1199 N. Fairfax St., Suite 801
Alexandria, VA 22313-1285

Derek Blake
Admirals Club
P.O. Box 619280
Dallas/Forth Worth
Airport, Texas 75261-9280

B. Barclay Jackson
New Hampshire PUC
8 Old Suncook Road
Concord, NH 03301-7310

Glenn H. Manishin
Michael D. Specht
Blumenfeld & Cohen
1615 N. St., N.W., Suite 700
Washington, D.C. 20036
Counsel for Int'l Telecard

Sandra J. Tomlinson
U S West, Inc.
Suite 700
1020 19th Street, N.W.
Washington, D.C. 20036

Willard C. Reine
314 East High Street
Jefferson City, MO 65101
Counsel for Midwest Independent
Coin Payphone Ass'n

Richard McKenna, HQS03J36
GTE Service Corporation
P.O. Box 152092
Irving, TX 75015-2092

Kevin E. Cox
Dallas/Fort Worth Int'l Airport
3200 East Airfield Drive
DFW Airport, Texas 75261-9428

Dryan Peterson
Kaspgrounds of America, Inc.
P.O. Box 30668
Billings, Montana 59114

Joel B. Shifman
Maine PUC
242 State St. House Station No. 18
Augusta, ME 04333-0018

David Kuzman
New Mexico State Corp. Commission
P.O. Drawer 1269
Santa Fe, New Mexico 87504-1269

Mark Smith
Independent Technologies, Inc.
11422 Miracle Mills Drive
Omaha, NE 68134

Ann Cassidy
One Call Communications, Inc.
801 Congressional Blvd.
Carmel, Indiana 46032

Artel
P.O. Box 392
Cedar Knolls, NJ 07927

Newton M. Galloway
113 Concord Street
Faulton, GA 30295
Counsel for Georgia Public
Communications Ass'n

John D. Solomon, A.A.E.
681 Franklin Avenue
P.O. Box 20047
Kansas City, MO 64195
Counsel for the City of
Kansas City, MO

James A. Thalen
The Cleveland Clinic Foundation
9500 Euclid Avenue
Cleveland, Ohio 44195

Robert M. Brill, Esq.
757 3rd Avenue, 12th Floor
New York, NY 10017

Angela B. Green
Florida Public Telecom.
Association, Inc.
135 S. Gadsden St., Suite 200
Tallahassee, FL 32301

Teresa Marrero
Teleport Communications Group Inc.
Two Teleport Drive, Suite 300
Staten Island, NY 10301

Roger B. Skrypczak
Wisconsin Public Communications
Association
W6246 County Trunk HB
Suite B
Appleton, WI 54915

Albert H. Kramer
Robert F. Aldrich
Dickstein, Shapiro, Morin &
Gshinsky, L.L.P.
2101 L Street, N.W.
Washington, D.C. 20037-1526
Counsel for Georgia Public
Communications Ass'n

Robert B. Cohn
Alexander Van der Bellen
Shaw, Pittman, Potts
& Trowbridge
2300 N Street, N.W.
Washington, D.C. 20037
Counsel for City of Kansas

Joe D. Edge
Sue W. Hladick
Drinker, Biddle & Reath
901 15th Street, N.W.
Washington, D.C. 20005
Counsel for Puerto Rico Tel. Co.

Edward C. Addison
Virginia State Corp. Commission
1300 East Main St.-5th floor
P.O. Box 1197
Richmond, VA 23218

Robert C. Caprye
CUNW, Inc./MANAGEMENT
7125 S.W. Hampton Street
Portland, Oregon 97223

David Cosson
2626 Pennsylvania Ave., N.W.
Washington, D.C. 20037
Counsel for National Telephone
Cooperative Association

J. Christopher Dance
Kerry Tassopoulos
Excell Telecommunications
20th Floor
8750 North Central Expressway
Dallas, Texas 75231

E. Ashton Johnston
Paul, Hastings, Janofsky
& Walker
10th Floor
1299 Pennsylvania Ave., N.W.
Washington, D.C. 20004-2400
Counsel for Arch Communications

Charles C. Hunter
Hunter & How, P.C.
1620 I St., N.W., Suite 701
Washington, D.C. 20006
Counsel for Telecommunications
Resellers Ass'n

Danny E. Adams
Steven A. Augustino
Kelley Drye & Warren LLP
1200 19th St., N.W., Suite 500
Washington, D.C. 20036

Catherine R. Sloan
Richard C. Fruchterman
Richard S. Whitt
LDDS WorldCom
Suite 400
1120 Connecticut Ave., N.W.
Washington, D.C. 20036

Mary J. Sisak
Donald J. Klardo
MCI Telecommunications
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Michell F. Brecher
Fleischman & Walsh, L.L.P.
1400 16th Street, N.W.
Washington, D.C. 20036
Counsel for Oncoor Communications

Thomas K. Crowe
Suite 800
2300 M Street, N.W.
Washington, D.C. 20037
Counsel for Excel

C. Douglas McKeever
Communications Central Inc.
1150 Northmeadow Pkwy., Suite 110
Roswell, Georgia 30076

Genevieve Morelli
CompTel
Suite 220
1140 Connecticut Ave., N.W.
Washington, D.C. 20036

Alan W. Baker
2000 West Ameritech Center Drive
Hoffman Estates, IL 60196
Counsel for Ameritech

Douglas F. Brent
LDDS WorldCom
9300 Shelbyville Rd., Suite 700
Louisville, Kentucky 40222

David J. Gudino
GTE, Suite 1200
1850 M Street, N.W.
Washington, D.C. 20036

Terrence J. Buda
Veronica A. Smith
John P. Povilaitis
P.O. Box 3265
Harrisburg, PA 17105-3265
Counsel for PA Public
Utility Commission

Mark C. Rosenblum
Peter H. Jacoby
Richard H. Rubin
AT&T, Room 3244J1
295 North Maple Avenue
Basking Ridge, NJ 07920

October 21, 1996

Sandy Ibaugh JF
Sandy Ibaugh